

Report Title:

Judges; Mandatory Retirement Age

Description:

Proposes a constitutional amendment to repeal the mandatory retirement age of 70 for state justices and judges. (CD1)



A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE HAWAII
CONSTITUTION TO REMOVE THE MANDATORY RETIREMENT AGE FOR
STATE JUSTICES AND JUDGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in today's society,
2 individuals are living longer, healthier lives, as evidenced by
3 the growing number of older individuals throughout the country
4 as well as the world. The legislature further finds that a
5 benefit of our aging society is the wisdom, experience, and
6 skills that these older individuals possess, which should be
7 both valued and respected, particularly in the workforce.

8 The legislature determines that the antiquated notion that
9 all individuals are no longer mentally or physically fit to be
10 contributing members of the workforce once they reach a certain
11 age must be abolished. This point is particularly striking when
12 examining the age restriction placed upon Hawaii's justices and
13 judges, who are highly educated individuals who have served as
14 learned members of the bar and now the bench. The wealth of
15 knowledge and experience in interpreting Hawaii's laws that is
16 retained by these individuals is invaluable to the residents of
17 Hawaii.



1 SECTION 2. The purpose of this Act is to propose an
2 amendment to article VI, section 3, of the Constitution of the
3 State of Hawaii to repeal the mandatory retirement age of
4 seventy for all state court justices and judges.

5 SECTION 3. Article VI, section 3, of the Constitution of
6 the State of Hawaii is amended to read as follows:

7 **"APPOINTMENT OF JUSTICES AND JUDGES**

8 **Section 3.** The governor, with the consent of the senate,
9 shall fill a vacancy in the office of the chief justice, supreme
10 court, intermediate appellate court and circuit courts, by
11 appointing a person from a list of not less than four, and not
12 more than six, nominees for the vacancy, presented to the
13 governor by the judicial selection commission.

14 If the governor fails to make any appointment within thirty
15 days of presentation, or within ten days of the senate's
16 rejection of any previous appointment, the appointment shall be
17 made by the judicial selection commission from the list with the
18 consent of the senate. If the senate fails to reject any
19 appointment within thirty days thereof, it shall be deemed to
20 have given its consent to ~~[such]~~ the appointment. If the senate
21 ~~[shall-reject]~~ rejects any appointment, the governor shall make
22 another appointment from the list within ten days thereof. The



1 same appointment and consent procedure shall be followed until a
2 valid appointment has been made, or failing this, the commission
3 shall make the appointment from the list, without senate
4 consent.

5 The chief justice, with the consent of the senate, shall
6 fill a vacancy in the district courts by appointing a person
7 from a list of not less than six nominees for the vacancy
8 presented by the judicial commission. If the chief justice
9 fails to make the appointment within thirty days of
10 presentation, or within ten days of the senate's rejection of
11 any previous appointment, the appointment shall be made by the
12 judicial selection commission from the list with the consent of
13 the senate. The senate must hold a public hearing and vote on
14 each appointment within thirty days of any appointment. If the
15 senate fails to do so, the nomination shall be returned to the
16 commission and the commission shall make the appointment from
17 the list without senate consent. The chief justice shall
18 appoint per diem district court judges as provided by law.

19 **QUALIFICATIONS FOR APPOINTMENT**

20 Justices and judges shall be residents and citizens of the
21 State and of the United States, and licensed to practice law by
22 the supreme court. A justice of the supreme court, a judge of



1 the intermediate appellate court and a judge of the circuit
2 court shall have been so licensed for a period of not less than
3 ten years preceding nomination. A judge of the district court
4 shall have been so licensed for a period of not less than five
5 years preceding nomination.

6 No justice or judge shall, during the term of office,
7 engage in the practice of law, or run for or hold any other
8 office or position of profit under the United States, the State
9 or its political subdivisions.

10 **TENURE; COMPENSATION; RETIREMENT**

11 The term of office of justices and judges of the supreme
12 court, intermediate appellate court and circuit courts shall be
13 ten years. Judges of district courts shall hold office for the
14 periods as provided by law. At least six months prior to the
15 expiration of a justice's or judge's term of office, every
16 justice and judge shall petition the judicial selection
17 commission to be retained in office or shall inform the
18 commission of an intention to retire. If the judicial selection
19 commission determines that the justice or judge should be
20 retained in office, the commission shall renew the term of
21 office of ~~such~~ the justice or judge for the period provided by
22 this section or by law.



1 There shall be a salary commission to review and recommend
2 salaries for justices and judges of all state courts. Justices
3 and judges shall have salaries as provided by law. Their
4 compensation shall not be decreased during their respective
5 terms of office, unless by general law applying to all salaried
6 officers of the State. [~~They shall be retired upon attaining~~
7 ~~the age of seventy years.~~] They shall be included in any
8 retirement law of the State."

9 SECTION 4. The question to be printed on the ballot shall
10 be as follows:

11 "Shall the mandatory retirement age of seventy for all state
12 court justices and judges be repealed?"

13 SECTION 5. Constitutional material to be repealed is
14 bracketed and stricken. New constitutional material is
15 underscored.

16 SECTION 6. This amendment shall take effect upon
17 compliance with article XVII, section 3, of the Constitution of
18 the State of Hawaii.

